

5831/04 (Presse 37)

PROVISIONAL VERSION

2561th Council meeting

- JUSTICE AND HOME AFFAIRS -

Brussels, 19 February 2004

President : **Mr Michael McDOWELL, TD**
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Ireland

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CONTENTS¹

– Mr Michael McDOWELL, TD..... 1

PARTICIPANTS..... 4

ITEMS DEBATED

APPLICATION OF THE MUTUAL RECOGNITION PRINCIPLE TO CONFISCATION
ORDERS..... 6

STATE OF IMPLEMENTATION OF THE EUROPEAN ARREST WARRANT..... 7

EU ACTION AGAINST ORGANISED CRIME IN THE WESTERN BALKANS 8

REPORT ON THE CEPOL (EUROPEAN POLICE COLLEGE) - *Council conclusions* 9

HANDBOOK TO PREVENT TERRORIST ACTS AT THE OLYMPIC GAMES 11

MINIMUM STANDARDS ON PROCEDURES FOR GRANTING AND WITHDRAWING
REFUGEE STATUS..... 12

MINIMUM STANDARDS FOR BEING QUALIFIED AS REFUGEE OR PERSONS IN
NEED OF INTERNATIONAL PROTECTION..... 13

SECURITY FEATURES IN PASSPORTS..... 14

DEVELOPMENT OF THE VISA INFORMATION SYSTEM (VIS) - *Council conclusions* 15

ANY OTHER BUSINESS..... 21

– Implementation of the European Security Strategy (ESS) 21

– Sky marshals..... 21

– Eurojust..... 22

MIXED COMMITTEE..... 22

¹

- *Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.*
- *The documents whose references are given in the text are available on the Council's Internet site <http://ue.eu.int>.*
- *Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the above mentioned Council Internet site or may be obtained from the Press Office.*

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

–	EUROPOL.....	I
–	European network for the protection of public figures.....	I
–	Shengen Information System (SIS).....	I
–	Immigration liaison officers network*	I
–	SIRENE manual	I
–	Migration and asylum - <i>Public deliberation</i>	II

EXTERNAL RELATIONS

–	Council renews targeted sanctions against Zimbabwe*	II
–	ACP-EC Partnership Agreement - consultations with Zimbabwe.....	III
–	Development co-operation – Gender equality – <i>Public deliberation</i>	III
–	Relations with Bulgaria - Regional aid map.....	III

TELECOMMUNICATIONS

–	European Network and Information Security Agency*- <i>Public deliberation</i>	IV
---	---	----

RESEARCH

–	Supplementary research programme	IV
---	--	----

AIR TRANSPORT

–	Slots*- <i>Public deliberation</i>	IV
---	--	----

INTERNAL MARKET

–	Community trade mark.....	V
---	---------------------------	---

ENVIRONMENT

–	Protocol on Persistent Organic Pollutants*	V
---	--	---

APPOINTMENTS

–	Eurojust	V
–	Committee of the Regions	VI

PARTICIPANTS

The Governments of the Member States and the European Commission were represented as follows:

Belgium:

Mr Patrick DEWAELE Deputy Prime Minister and Minister for the Interior

Denmark:

Ms Lene ESPERSEN Minister for Justice
Mr Bertel HAARDER Minister for Refugees, Immigration and Integration

Germany:

Mr Otto SCHILY Federal Minister for the Interior

Greece:

Mr Pantelis TSERTIKIDIS State Secretary for Public order

Spain:

Mr Rafael CATALÁ POLO State Secretary for Justice

France:

Mr Pierre SELLAL Ambassador, Permanent Representative

Ireland:

Mr Michael McDOWELL Minister for Justice, Equality and Law Reform

Italy:

Mr Giuseppe PISANU Minister for the Interior

Luxembourg:

Mr Luc FRIEDEN Minister for Justice, Minister for the Treasury and the Budget

Netherlands:

Mr Jan Piet Hein DONNER Minister for Justice
Ms Rita VERDONK Minister for Aliens' Affairs and Integration

Austria:

Mr Ernst STRASSER Federal Minister for the Interior

Portugal:

Mr António FIGUEIREDO LOPES Minister for the Interior

Finland:

Mr Johannes KOSKINEN Minister for Justice

Sweden:

Mr Barbro HOLMBERG Minister at the Ministry of Foreign Affairs with responsibility for Migration Policy
Mr Thomas BODSTRÖM Minister for Justice

United Kingdom:

Ms Caroline FLINT Parliamentary Under-Secretary of State, Home Office

* * *

Commission:

Mr António VITORINO Member

The Governments of the acceding States were represented as follows:

Czech Republic :

Mr Karel ČERMÁK

Minister for Justice

Estonia :

Mr Väino REINART

Permanent Representative

Cyprus :

Mr Andreas CHRISTOU

Minister for the Interior

Mr Doros THEODOROU

Minister for Justice and Public Order

Latvia :

Mr Aivar AKSENOKS

Minister for Justice

Lithuania :

Mr Virgilijus BULOVAS

Minister for the Interior

Hungary :

Ms Mónika LAMPERTH

Minister for the Interior

Malta:

Mr Carmelo Mifsud BONNICI

Parliamentary Secretary, Ministry of Justice and Home Affairs

Poland :

Mr Sylwester KROLAK

Deputy Minister for Justice

Slovakia :

Mr Vladimír PALKO

Minister for the Interior

Mr. Daniel Lipšic

Minister of Justice

Slovenia :

Mr Ivan BIZJAK

Minister for Justice

ITEMS DEBATED

APPLICATION OF THE MUTUAL RECOGNITION PRINCIPLE TO CONFISCATION ORDERS

The Council examined two important political questions of the proposal for a Framework Decision on the application of the principle of mutual recognition to confiscation orders: the question of the fundamental rights and fundamental legal principles and the grounds for non-recognition or non-execution of a confiscation order in circumstances where the issuing state is relying on extended powers of confiscation.

Following the debate, the Council agreed that this Framework Decision shall not have the effect of amending the obligation to respect the fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty of the EU, and any obligations incumbent on judicial authorities in this respect shall remain unaffected.

As regards the grounds for refusal, the Council agreed on a consultation mechanism between Member States before the executing State decides not to recognise or execute a confiscation order when it falls outside the scope of the option adopted by the executing State under the draft Framework Decision on confiscation of crime-related proceeds, instrumentalities and property. Furthermore, the executing State shall enforce the confiscation order at least to the extent provided for in similar domestic cases under national law.

The purpose of this Framework Decision is to facilitate cooperation between Member States as regards the recognition and execution of orders to confiscate the proceeds of crime. By means of the mutual recognition principle, a Member State will have to recognise and execute in its territory confiscation orders issued by judicial authorities of another Member State.

It should be noted that this Framework Decision is closely linked to the already adopted Framework Decision on the application of the principle of mutual recognition to orders freezing property or evidence. It is also linked to the draft Framework Decision on confiscation of crime-related proceeds, instrumentalities and property on which the JHA Council adopted a general approach in December 2002.

The Council instructed its relevant preparatory bodies to further examine other outstanding questions with a view to reaching political agreement on the Framework Decision at a forthcoming Justice and Home Affairs Council.

STATE OF IMPLEMENTATION OF THE EUROPEAN ARREST WARRANT

The Council was briefed by those Member States that have not yet implemented this Framework Decision, on the state of play of their implementation process. The Framework decision provides for its implementation by 1 January 2004 by Member States and by 1 May 2004 by acceding countries.

According to the information provided to the Council, the following eight Member States apply the regime of the European Arrest Warrant and surrender procedures as from 1 January 2004 in their relations to other Member States that have passed legislation under the Framework Decision: Belgium, Denmark, Ireland, Finland, Spain, Sweden, Portugal and the United Kingdom. Hungary has also adopted the necessary implementing legislation and the other Acceding States have all indicated to be ready as of 1 May 2004. For the other seven Member States, most are expected to have implemented the Framework Decision around April 2004.

EU ACTION AGAINST ORGANISED CRIME IN THE WESTERN BALKANS

The Council approved the establishment of a Friends of the Presidency group for the purpose of drawing up a report on organised crime originating from the Western Balkans.

The Group, which will consist of experts designated by Member States, will have undertake a review of all the measures and instruments that are used for the purpose of fighting organised crime originating from the region. For this purpose, the Group will consult extensively Member States and other relevant parties.

It should be noted that the EU-Western Balkans summit held in Thessaloniki on 21 June 2003 emphasised that organised crime and corruption is a real obstacle to democratic stability, the rule of law, economic development of civil society in the region and that combating organised crime and corruption in the Western Balkans constitutes a major priority of the Union. The EU Western Balkans Forum met at JHA Ministerial level in Brussels on 28 November 2003 to discuss, in particular, the situation related to organised crime in the Western Balkans and its impact on the European Union and to evaluate the necessary measures to cope with it. The forum highlighted, in order to enhance the fight against organised crime, the importance of co-ordination between the various instruments deployed by the EU, between the Western Balkans countries as part of their regional cooperation and between all the different players in the region, at all levels.

REPORT ON THE CEPOL (EUROPEAN POLICE COLLEGE) - Council conclusions

Following the examination of the CEPOL-Three year report by the Council preparatory bodies, the Council adopted the following conclusions :

“INTRODUCTION

Point 47 of the Tampere conclusions states that a European Police College (CEPOL) for the training of senior law enforcement officials should be established. It should start as a network of existing national training institutes and it should also be open to the authorities of candidate countries.

The Council Decision of 22 December 2000 (Decision 2000/820/JHA) established CEPOL.

Article 9 of the Council Decision requires the Governing Board to submit to the Council a report on the operation and the future of the network at the latest during the third year after the Decision took effect.

The Governing Board of CEPOL approved the three year report at its meeting on 5 December 2003 and transmitted it to the Article 36 Committee on 9 December 2003

Ireland introduced an initiative in December 2003 for a Council Decision to give legal personality to CEPOL.

The United Kingdom introduced an initiative in January 2004 for a Council Decision to give effect to the decision of the Representatives of the Member States, meeting at Head of State or Government level on 13 December 2003, that CEPOL is to have its seat in Bramshill, England.

THE COUNCIL:

1. Welcomes the three year report and notes with satisfaction the progress that has been made by CEPOL since its establishment including in particular the contribution of Denmark to this development. The Council also notes the conclusions and recommendations of the Governing Board in the report.
2. Recognises that institutional changes are required to ensure the further efficient and effective development of CEPOL.

3. With the aim of facilitating the future development and enhancing the operational efficiency of CEPOL, the Council welcomes the progress achieved on the following proposals:

- a) a Council Decision giving legal personality to CEPOL, and
- b) a Council Decision incorporating the agreement at Head of State or Government level of 13 December 2003 on the seat of CEPOL

and looks forward to their early adoption.

4. Requests the Governing Board to submit proposals, in the context of its budgetary proposals for 2005, to ensure the Secretariat has the necessary resources taking account of developments referred to above.

5. Requests the Governing Board to develop without delay an educational strategy that takes sufficient account of the core objectives and tasks set out in the Council decision setting up CEPOL, including strengthening the knowledge of international instruments in the field of cooperation on combating crime and contributing to the preparation of harmonised training programmes for police officers with regard to cross border cooperation between police forces in Europe.

6. Requests the Governing Board to continue to consult regularly the Chiefs of Police Task Force to ensure that policing operational needs are fully taken into account in CEPOL's work programme and that its training strategy fully reflects those operational needs.

7. Considers that an examination of the future development of CEPOL needs to be undertaken and, in this context, notes the intention of the Commission to bring forward additional proposals relating to the functioning of CEPOL and directed, in particular, to the role of the Secretariat and improving CEPOL's financial and staff management and invites the relevant Council bodies, taking account of the further views of the Governing Board, to examine these proposals when introduced.

8. Considers that the organisation and structure of CEPOL should be kept under review, particularly in the light of the measures arising from conclusions 3, 5, 6 and 7, and therefore requests the Governing Board to submit a further report on the development of CEPOL no later than end 2005 allowing the Council to consider CEPOL's future development needs."

HANDBOOK TO PREVENT TERRORIST ACTS AT THE OLYMPIC GAMES

The Council adopted a Recommendation concerning a handbook for the cooperation between Member States to avoid terrorist acts at the Olympic Games and other comparable sporting events.

The purpose of the handbook is to serve as a reference point for practical cooperation between the competent authorities in Europe undertaking the responsibility for security at the 2004 Olympic Games and other comparable international sporting events. The handbook addresses only issues related to the fight against terrorism.

Major international sporting events such as the Olympic Games have been a platform for terrorist activities. In several Member States major international sporting events are going to be held between 2004 and 2007, in particular the Olympic Games and the Football World Cup.

**MINIMUM STANDARDS ON PROCEDURES FOR GRANTING AND WITHDRAWING
REFUGEE STATUS**

The Council held an orientation debate on the proposal for a Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. The debate focused on the question of appeals. In particular, Ministers discussed the three following issues :

- 1) whether the Directive should provide for derogations from the right to an effective remedy for a decision that is inadmissible on the basis of the safe third country concept, and a decision not to examine a subsequent application further,
- 2) the applicant's right to request a court or tribunal to decide whether he/she would be allowed to remain in a Member State, pending the outcome of an appeal or review, and
- 3) whether the Directive should prescribe the circumstances in which a Member State may remove an applicant before a court or tribunal has made a decision on any such request.

In the light of the debate, the Council preparatory bodies will continue their work with a view to reaching an agreement within the time-limit set by the Amsterdam Treaty (1 May 2004).

The objective of the proposal is to establish minimum procedures in Member States for examining applications for asylum.

The Brussels European Council of 12 December 2003 took note of the persisting political obstacles that have been delaying the conclusion of these negotiations. It reaffirmed the importance of developing a common European policy on asylum and invited the Justice and Home Affairs Council to complete its work as soon as possible to ensure that the first phase of the establishment of a European asylum system is fully implemented within the deadline set out in Article 63 of the Treaty.

An important number of items remain outstanding: the main issues refer to the scope of the Directive, the right to legal assistance and representation, provisions relating to safe third countries and safe countries of origin and appeal procedures.

MINIMUM STANDARDS FOR BEING QUALIFIED AS REFUGEE OR PERSONS IN NEED OF INTERNATIONAL PROTECTION

The Council, noting that one delegation was not able to lift its general reservation on the Directive, decided to postpone the examination of this proposal to its next meeting in March.

The purpose of the proposal is to provide a framework for an international protection regime, based on existing international and community obligations and current Member States practice, and separated into the two complementary categories of refugee and subsidiary protection in order to maintain the primacy of the Geneva Convention in such a regime.

In 2003, an overall compromise was reached on the proposal, subject to reservations from two delegations. The main difficulties related to the level of rights to be granted to beneficiaries of subsidiary protection status (access to employment, social welfare, health care...).

It is recalled that, on the basis of Article 63 of the Treaty, this draft Directive should be agreed by 1 May 2004.

SECURITY FEATURES IN PASSPORTS

Commissioner VITORINO briefed the Council on the main elements of the recently approved (18 February 2004) Commission's proposal on security features in EU citizen's passports (doc. 6406/04). The proposal will now be examined by the Council preparatory bodies.

The Commission aims at harmonising the security features of passports laying down minimum standards for European passports and at assuring the integration of biometric identifiers.

The Commission proposal provides for the mandatory storage of the facial image in the passport as a primary biometric identifier in order to ensure interoperability. A secondary biometric identifier, the fingerprint, would be left optional for Member States and could be stored either in the passport and/or in a national database.

The Thessaloniki European Council of 19/20 June 2003 confirmed that "a coherent approach is needed in the EU on biometric identifiers or biometric data which would result in harmonised solutions for documents for third country nationals, EU citizens' passports and information systems (VIS and SIS II), and invited the Commission "to prepare the appropriate proposals, starting with the visa". In September 2003, the Commission presented as a first step two proposals on the integration of biometric identifiers in the uniform formats for visas and for residence permits of third country nationals. The Council reached a common approach on the proposals in November 2003.

DEVELOPMENT OF THE VISA INFORMATION SYSTEM (VIS) - Council conclusions

The Council adopted the following conclusions :

- “1. The European Council meeting in Laeken asked the Council and the Member States, in point 42 of its conclusions, to take steps to set up a common visa identification system.

This reaffirmed the Council's invitation to the Commission on 20 September 2001, in point 26 of its conclusions, to submit proposals for establishing a network for information exchanges concerning visas issued.

The Council on 28 February 2002 approved the comprehensive plan to combat illegal immigration and trafficking of human beings in the European Union. Among the measures and actions concerning visa policy contained in this plan, provision is made for the development of a European Visa Identification System (points 34 to 40).

The European Council in Seville on 21-22 June 2002 called on the Council and the Commission, within their respective spheres of responsibility, to attach top priority to the introduction of a common identification system for visa data, in the light of a feasibility study and on the basis of guidelines, adopted by the Council on 13 June 2002.

2. The Commission has launched on 16 September 2002 a feasibility study on technical and financial aspects of the Visa Information System (VIS), the results of which were submitted to the Council in May 2003.

The Council on 5 June 2003 welcomed the feasibility study, as presented by the Commission, confirmed the objectives for such a Visa Information System as set out in the guidelines, invited the Commission to continue its preparatory work on the development of the VIS in cooperation with Member States on the basis of a centralised architecture, taking into account the option of a common technical platform with SIS II, without delaying the development of SIS II, and undertook to give the necessary political orientation by December 2003 at the latest on the basic elements of the VIS, including the architecture, the functionalities, taking into account the financial component, the choice of biometric identifier(s) and the approach for the implementation of the system, thus allowing to integrate VIS as a possible option in the call for tender for SIS II.

3. Following these Conclusions of the Council on 5 June 2003, as reaffirmed by point 11 of the Thessaloniki Conclusions of the European Council, the Council:

- invites the Commission to exercise the VIS option included in the call for tender for SIS II,
- gives the annexed orientations, and
- invites the Commission to take these orientations into account when preparing the technical implementation of the VIS and the proposal for the legal instrument concerning the establishment of the VIS, while fully respecting the Communities' legislation on the protection of personal data.

Annex

1. Purpose of the VIS

The Visa Information System (VIS) is a system for the exchange of visa data between Member States, which must meet the following objectives:

- (a) constitute an instrument to facilitate the fight against fraud, by improving exchanges of information between the Member States (at consular posts and at border crossing points) on visa applications and responses thereto;
- (b) contribute to the improvement of consular cooperation and to the exchange of information between central consular authorities;
- (c) facilitate checks that the carrier and the holder of the visa are the same person, at external border checkpoints or at immigration or police checkpoints;
- (d) contribute to the prevention of "visa shopping";
- (e) facilitate application of Council Regulation (EC) No 343/2003 determining the State responsible for examining applications for asylum;
- (f) assist in the identification and documentation of undocumented illegals and simplify the administrative procedures for returning citizens of third countries;
- (g) contribute towards improving the administration of the common visa policy and towards internal security and to combating terrorism.

2. Implementation approach for the VIS

The VIS will be a system for the exchange of visa data in relation to Schengen uniform visas (A, B, C-visas) and "national visas" (D, D+C-visas), including visas with limited territorial validity (LTV), of the Member States which have abolished checks at their internal borders, as defined in the Common Consular Instructions:

- airport transit visa (A-visa)
- transit visa (B-visa)
- short-term visa (C-visa)
- long-term national visa (D-visa)
- national long-stay visa valid concurrently as a short stay visa (D+C-visa).

The position of Ireland and the United Kingdom will require being determined in the context of the negotiation of the Regulation, and in accordance with the relevant provisions of the Treaties.

The VIS should be implemented in a step-wise approach, starting with the processing of alphanumeric data and digitised photographs or original photographs taken with a digital camera depending on further assessment of the impacts of both alternatives. This first step should be implemented by the end of 2006.

In a second step, in coherence with the choice of biometric identifiers in the field of visas and taking into account the outcome of the on-going technical developments, biometric data on the visa applicants should be added to the VIS for verification and identification purposes, including background checks. Individual Member States are allowed to store fingerprints and facial images earlier than other Member States. The VIS should be designed accordingly from the beginning in such a way that no major changes or adaptations will be necessary to that end. The second step should be

implemented, if possible, by the end of 2007.

In a further step, supporting documents could be scanned and processed.

From the beginning the VIS has to be designed in such a way that all steps can be implemented.

The VIS should start with an empty database and start collecting data at a defined date for the Member States.

3. Content of the VIS in a first step: alphanumeric data and photographs

The following information should be processed in the System in the first step:

- (a) types of visa: Schengen uniform visas and "national visas", indicating types (A, B, C, D, D+C), including LTVs;
- (b) status of visas:
 - Visas requested
 - Visas issued,
 - Visas formally refused
 - Visas annulled, revoked, extended;
- (c) all the relevant data required to identify the applicant, to be taken from the application form;
- (d) all the relevant data required to identify the visa, to be derived from the sticker;
- (e) the competent authority that issued the visa (including border crossing points) and whether that authority issued it on behalf of another State, as well as the competent authority that formally refused, annulled, revoked or extended the visa;
- (f) standard grounds for refusing, cancelling, withdrawing and extending visas;
- (g) information required for the VISION consultation and on the results obtained by that consultation;
- (h) record of persons issuing invitations, those liable to pay board and lodging costs;
- (i) digitised photographs or original photographs of the visa applicants, taken with a digital camera depending on further assessment of the impacts of both alternatives.

Process and status information should be available in codes, whereas each Member State will provide the translation for its authorities.

4. Additional content of the VIS in further steps: biometric data and scanned documents

In a second step, in coherence with the choice of biometric identifiers in the field of visas and taking into account the outcome of the on-going technical developments, biometric data on the visa applicants should be added to the VIS, thus allowing the linkage with the data mentioned above in point 3 for verification and identification purposes, including background checks. Individual Member States are allowed to store fingerprints and facial images earlier than other Member States. The VIS should be designed accordingly from the beginning in such a way that no major changes or adaptations will be necessary to that end.

In a further step, the following supporting documents could be scanned and processed, when they are added to the visa file, such as

- travel documents,
- record of persons issuing invitations, those liable to pay board and lodging costs;
- insurance policies; etc.

5. Development of the VISION Network

The technical functionalities of the VISION Network for consulting the central authorities, referred to in Article 17(2) of the Schengen Convention, should be integrated into the VIS.

6. Architecture and location of the VIS

The VIS will be based on a centralised architecture and a common technical platform with SIS II, as far as allowed by the technical and data protection requirements for the two systems. However, the VIS and the SIS II shall be two different systems with strictly separated data and access.

The VIS will consist of a Central Visa Information System (CS-VIS) with an interface in each Member State (National Interface - NI-VIS) which provides the connection to the relevant central national authority of the respective Member State, and the communication infrastructure between the Central Visa Information System and the National Interfaces.

The Central Visa Information System (CS-VIS) should be hosted in the same location as the Central System of SIS II. This decision should not prejudice the future management of the SIS II system. The Central Visa Information System (CS-VIS) and its business continuity system should be hosted in different locations.

In relation to the national systems, the following should be taken into account:

- (a) operational and organisational competence for the national systems will rest with each Member State;
- (b) each Member State will establish the location(s) and arrangements for user access to the NI-VIS;
- (c) each Member State will adapt existing national systems; in case that there is no existing national system, the Member States concerned will create an adequate communication infrastructure with their consular posts and other competent authorities and be responsible for user management;
- (d) each Member State will be responsible for management information like financial information and other specific national information.

7. Access to the VIS

From the beginning the VIS will provide the following types of access, while fully respecting the Communities' legislation on the protection of personal data and limited to the extent the visa data are required for the performance of the tasks of the acceding authorities according to the purposes of the VIS:

- (a) access for entering and updating data will be confined to persons duly authorised to that end and involved in the visa-issuing process or in processes to annul, revoke and extend visas (e.g. persons from consular posts, immigration authorities and border control authorities)
- (b) access for consultation will be available to the persons mentioned in the previous paragraph, and also to all duly authorised bodies and persons with responsibility for controlling border checkpoints as well as other national authorities to be authorised by each Member State such as police departments, immigration departments and services responsible for internal security, provided that visa data are required for the performance of their tasks.

The technical and financial impact of the following two access modes should be further assessed and implemented, if justified by synergy effects.

VIS-users should have access to consult SIS data via the Central Visa Information System (CS-VIS), as far as they are entitled to consult the SIS.

SIS-users such as police, immigration and border control authorities may consult VIS data via the SIS II infrastructure at central level, as far as they are entitled to consult the VIS.

8. Period of retention of on-line data

While fully respecting the Communities' legislation on the protection of personal data, data should remain in the system for on-line consultation for a period of at least five years. This period will start to run when the data of the decision on the visa application are entered in the system.

After that period has elapsed, the data shall be deleted in the CS-VIS.

9. Communication infrastructure between the CS-VIS and the NI-VIS

In view of synergies with the SIS II, for the communication between the Central System (CS-VIS) and the National Interfaces (NI-VIS) the same infrastructure should be used as for SIS II.

10. Financing

The investment and operational costs for the VIS, consisting of the CS-VIS with an interface in each Member State (National Interface - NI-VIS) and the communication infrastructure between the CS-VIS and the National Interfaces, shall be borne by the budget of the European Communities.

The investment and operational costs for the national infrastructures beyond the National Interfaces (NI-VIS) will be borne by each Member State, including the network costs between the NI-VIS and the national systems and the adaptation of existing national systems to the VIS or the development and establishment of new national systems.

When implementing the VIS, Member States should consider the possibility of creating Common Consular Posts in order to use common equipment.”

ANY OTHER BUSINESS

– ***Implementation of the European Security Strategy (ESS)***

The Council discussed the question of the Justice and Home Affairs Council input to the implementation of the ESS, on the basis of a presentation by SG/HR, Mr Javier SOLANA.

The Council thanked SG/HR SOLANA for his efforts to develop a comprehensive approach to security and highlighted that this complex issue required a comprehensive approach with appropriate involvement on the part of the relevant Justice and Home Affairs preparatory bodies, and in particular Europol.

It should be noted that this item was included in the Council's agenda at the request of the Austrian Minister of Interior, Mr Ernst STRASSER, who put forward ideas on implementing the ESS in the field of Justice and Home Affairs.

The ESS was adopted by the European Council on 12 December 2003. On that occasion, the European Council asked the incoming Irish Presidency and the SG/HR, in coordination with the Commission, to present concrete proposals for the implementation of the ESS in the field of the fight against terrorism.

– ***Sky marshals***

Commission VITORINO briefed the Council on possible suggestions for putting into place a system of sky marshals in the EU. The Presidency indicated that it would seek to take consideration of the relevant issues forward as soon as possible.

It should be noted that the US Authorities adopted, on 29 December 2003, unilateral "emergency amendments" on sky marshals. These "emergency amendments" have been issued by the US Department of Homeland Security, and contain requirements for armed guards on board of transatlantic flights.

– ***Eurojust***

Commissioner VITORINO urged the new Member States to appoint their national representatives of Eurojust as soon as possible.

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Over lunch, Ministers discussed the so-called “Schengen facility” and the question of visa reciprocity.

The Schengen facility, agreed at the Copenhagen summit and detailed in Article 35 of the Accession Treaties, provides 969 million euro for the Acceding States in order to help them reach the Schengen level.

MIXED COMMITTEE

In the margins of the Council, the Mixed Committee at Ministerial Level (EU + Iceland and Norway) met in the context of the Schengen arrangements under the chairmanship of Mr Michael McDOWELL, Minister for Justice, Equality and Law Reform of Ireland, to examine the Justice developments of the Visa Information System (VIS)

The Mixed Committee agreed on conclusions on this issue, to be found in pages 15 to 20.

The Conclusions represent key political orientations that will serve as a basis for the Commission to draw up the legal instruments for the establishment of the VIS.

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

EUROPOL

The Council authorised the Director of Europol to conclude both the draft agreement between Europol and UNODC (United Nations Office on Drugs and Crime) (15046/03) and the draft agreement between Europol and Turkey (15045/03).

European network for the protection of public figures

The Council took note of a report of the activities of the European network for the protection of public figures (14099/1/03).

Shengen Information System (SIS)

The Council approved a management report concerning the implementation of the technical support function of the Shengen Information System (C.SIS).

Immigration liaison officers network*

Following the general approach reached on 2-3 October 2003 and after the European Parliament has delivered its opinion, the Council adopted the Regulation on the creation of an immigration liaison officers network (15813/03).

According to this Regulation, "immigration liaison officer" means a representative of one of the Member States, posted abroad by the immigration service or other competent authorities in order to establish and maintain contacts with the authorities of the host country with a view to contributing to the prevention and combating of illegal immigration, the return of illegal immigrants and the management of legal migration.

SIRENE manual

The Council adopted a Decision and a Regulation on procedures for amending the SIRENE manual (5361/04 + 5362/04).

The Sirene Manual is a set of instructions to operators in the Sirene offices of each of the Member States which describes in detail the rules and procedures governing the bilateral or multilateral exchange of such supplementary information.

Migration and asylum - *Public deliberation*

Following approval of the European Parliament's first reading amendments, the Council adopted a Regulation establishing a programme for financial and technical assistance to third countries in the area of migration and asylum, in the framework of the codecision procedure (*PE-CONS 3698/03*).

This Regulation gives a legal framework as well as increased appropriations to the preparatory actions which, in the framework of a partnership with the countries and regions of origin and transit in relation to migration and asylum, have been conducted since 2001 under the budget line B7-667.

The multiannual programme established by the Regulation will cover the period 2004 to 2008. The financial framework for the implementation of this Regulation is set at EUR 250 million, of which EUR 120 is for the period until 1 December 2006. It is designed to provide a specific, additional response to the needs of third countries in their efforts to manage more effectively all aspects of migratory flows.

EXTERNAL RELATIONS

Council renews targeted sanctions against Zimbabwe*

The Council adopted a Common Position and a Regulation amending and extending targeted sanctions against Zimbabwe provided for by Common Position 2003/115/CFSP and Regulation 313/2003, in the light of a continued deterioration in the human rights situation there (*5641/04 + 5843/04 + 5640/2/04*).

Extended for 12 months, the sanctions take the form of an embargo on the sale, supply or transfer of arms and technical advice, assistance or training related to military activities, and an embargo on the sale and supply of equipment that could be used for internal repression in Zimbabwe.

They also include a travel ban on persons who engage in serious violations of human rights and of the freedom of opinion, of association and of peaceful assembly in Zimbabwe, and a freezing of their funds, financial assets and economic resources. The list of persons subject to these measures is updated.

The aim of the sanctions, adopted in 2002 and extended in 2003, is to encourage those targeted to reject policies that lead to suppression of human rights, of the freedom of expression and of good governance.

The Common Position will be published in Official Journal no. L/50 on 20 February 2004, and the Regulation on 24 February 2004.

ACP-EC Partnership Agreement - consultations with Zimbabwe

The Council adopted a Decision extending by 12 months the period of application of the measures introduced under Decision 2002/148/EC following consultations with Zimbabwe under Article 96 of the ACP-EC Partnership Agreement (5952/04).

The measures include suspension of support under the European Development Fund in all areas except those in direct support of the Zimbabwean population, reorientation of support in favour of social sectors, democratisation, respect for human rights and the rule of law, and suspension of the signature of new EDF funding.

Application of the measures, adopted in 2002, was already extended in February 2003. After a further 12-month period, the Council considers that democratic principles are still not upheld in Zimbabwe and that no progress has been achieved by the Zimbabwean government in the five fields addressed by Decision 2002/148/EC. This will involve an end to politically motivated violence, free and fair elections, freedom of the media, independence of the judiciary and an end to illegal farm occupations.

Development co-operation – Gender equality – *Public deliberation*

The Council adopted a Common Position on a draft Regulation of the European Parliament and of the Council on promoting gender equality in development co-operation (5402/04). The text will be sent to the Parliament for a second reading under the co-decision procedure.

The Regulation provides for Community financial assistance and expertise aimed at promoting gender equality in all development cooperation policies and actions in developing countries.

Relations with Bulgaria - Regional aid map

The Council approved a draft Decision, to be adopted by the EU-Bulgaria Association Committee, on a regional aid map for the assessment of public aid granted by Bulgaria (*doc. UE-BG 1909/03*).

Under the Decision, maximum aid intensities applicable throughout Bulgaria will be limited, in net grant equivalent, to 50% of costs. These maximum aid intensities may be raised by 15 gross percentage points in the case of aid granted to small and medium-sized enterprises. They will constitute upper limits which apply to the total aid whenever assistance is granted concurrently under several regional schemes, and regardless of whether it comes from local, regional, national or Community sources.

The Decision will apply until 31 December 2006, or up to the date of Bulgaria's accession to the European Union, whichever comes first.

TELECOMMUNICATIONS

European Network and Information Security Agency* - *Public deliberation*

The Council adopted in first reading a Regulation establishing the European Network and Information Security Agency, as amended by the European Parliament (*PE-CONS 3688/03 + 5429/04 ADD*).

The European Network and Information Security Agency is intended to assist the Commission and the Member States in meeting requirements, including those set out in present and future Community legislation, in the light of increased concerns regarding network and information security. The Regulation will enhance the capability of the Community, the Member States and, as a consequence, the business community to prevent, address and to respond to network and information security problems.

The Agency will be operational for an initial period of 5 years. It will be located in Greece following the Decision taken by the Heads of State and Government on 13 December 2003.

RESEARCH

Supplementary research programme

The Council adopted a Decision regarding a supplementary research programme on the operation of a high flux reactor (HFR) (*5507/04*).

AIR TRANSPORT

Slots* - *Public deliberation*

The Council adopted, with the abstention of the Belgian delegation, its common position on the draft Regulation amending Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (*16305/03 + 5998/04 ADD 1*). The common position will be now sent to the European Parliament in the framework of the codecision procedure.

The text adopted by the Council is intended to be a technical update of the present regulation, seeking to clarify the application of the existing regime, on a number of different points, including the independent status of coordinators and the functioning of slot allocation procedures. The Council decided to leave a more substantial revision of the slot allocation system, including market access questions, to a second stage on the basis of a new Commission proposal.

INTERNAL MARKET

Community trade mark

The Council adopted a Regulation modifying the Community trademark Regulation 40/94/EC (15681/03). The new Regulation clarifies some aspects of the existing Regulation and supplements new aspects of the functioning of the Community trademark thereby improving the efficiency of the system and increasing its added value.

In particular, it simplifies the current searching system, only the search as regards prior Community trade marks carried out by the Office for Harmonization in the Internal Market (OHMI) in Alicante remains compulsory. The new Regulation also establishes criteria in relation to the search reports aimed at improving the quality of searches. The implementation of the new system will take place after a transitional period of four years.

ENVIRONMENT

Protocol on Persistent Organic Pollutants*

The Council adopted a Decision on the conclusion, on behalf of the European Community, of the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants (5307/04 + 6049/1/04). The instrument of approval on behalf of the Community will be deposited with the Secretary-General of the United Nations, in accordance with Article 16 of the Protocol.

The Protocol aims at limiting discharges, emissions and losses of thirteen persistent organic pollutants that cause significant adverse effects on human health or the environment as a result of their long-range transboundary atmospheric transport.

APPOINTMENTS

Eurojust

The Council approved the election of Mrs Ulrike HABERL-SCHWARZ as Vice-President of Eurojust (5883/04).

Committee of the Regions

The Council adopted Decisions appointing :

Mr Joan CARRETERO I GRAU, Consejero de Gobernación y Administraciones Públicas – Gobierno de la Comunidad Autónoma de Cataluña, as an alternate member of the Committee of the Regions in place of Mr Joaquim LLIMONA I BALCELLS for the remainder of his term of office, which ends on 25 January 2006 (*doc. 6104/04*).

Mr Pascual MARAGALL I MIRA, Presidente – Gobierno de la Comunidad Autónoma de Cataluña, as a member of the Committee of the Regions in place of Mr Jordi PUJOL I SOLEY for the remainder of his term of office, which ends on 25 January 2006 (*doc. 6106/04*).

Mr Andreas SCHIEDER, Gemeinderat (Vienna), is hereby appointed an alternate member of the Committee of the Regions in place of Mr Bernd VÖGERLE for the remainder of his term of office, which runs until 25 January 2006 (*doc. 6180/04*).

Mr Bernd VÖGERLE, Bürgermeister, Vizepräsident des Österreichischen Gemeindebundes and alternate member of the Committee of the Regions, as a member of the Committee of the Regions in place of Ms Helga MACHNE for the remainder of her term of office, which runs until 25 January 2006 (*doc. 6181/04*).

Mr Markus LINHART, Bürgermeister (Bregenz), as an alternate member of the Committee of the Regions in place of Mr Ernst WOLLER for the remainder of his term of office, which ends on 25 January 2006 (*doc. 6051/04*).
